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Attorneys for Defendants David Baden and Dolores Matteucci

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

DISABILITY RIGHTS OREGON,
METROPOLITAN PUBLIC DEFENDER
SERVICES, INC., and A.J. MADISON,

Plaintiffs,

v.

DAVID BADEN, in his official capacity as head of the Oregon Health Authority, and DOLORES MATTEUCCI, in her official capacity as Superintendent of the Oregon State Hospital,

Defendants.

JAROD BOWMAN, JOSHAWN DOUGLAS-SIMPSON,

Plaintiffs,

v.

DOLORES MATTEUCCI, Superintendent of the Oregon State Hospital, in her individual and official capacity, David Baden, Director of the Oregon Health Authority, in his official

Case No. 3:02-cv-00339-MO (Lead Case)
Case No. 3:21-cv-01637-MO (Member Case)

DEFENDANTS' UNOPPOSED MOTION
FOR CLARIFICATION OF ORDER

Case No. 3:21-cv-01637-MO

capacity, and PATRICK ALLEN in his individual capacity,

Defendants,

LR 7-1 CERTIFICATION

Undersigned counsel certifies that she conferred with counsel for all Plaintiffs in these matters and Plaintiffs do not oppose this motion. Plaintiffs' precise position is stated in their separately filed motion.

MOTION

Defendants ask this Court to issue an order clarifying when the time starts to run for purposes of calculating the time limits on inpatient restoration imposed by the Court's September 1, 2022, remedial order, and whether a patient's refusal to participate in certain types of restoration treatment or programs may pause that time.

In light of how time runs on the permissible length of inpatient restoration given an aid-and-assist patient's statutory end of jurisdiction¹ and the context of Plaintiffs' motion and hearings that led to this Court's September 1 Order, Defendants had understood that the time limits on inpatient restoration under that Order begin to run upon admission to the Oregon State Hospital (OSH) and are not subject to pauses based on a patient's refusal to participate in any of the various restoration services.

But OSH has begun receiving orders from state court judges interpreting this Court's September 1 Order differently—namely, that the time under this Court's Order may be paused via a state court order when an aid-and-assist patient is declining to participate in restoration services, including legal skills training, taking medication, or participating in the statutory forensic evaluation process. And, as noted in Plaintiff's motion, one state court has issued an order to show cause why OSH should not be held in contempt for not re-admitting a patient whom OSH had discharged according to OSH's present understanding of how time runs for inpatient restoration under this Court's Order. That hearing is set for June 7, 2023.

¹ See ORS 161.371(5).

If these state courts are interpreting this Court's September 1 Order correctly, OSH will need to start calculating the length of inpatient restoration differently. And, depending on the number of state court orders pausing the clock under this Court's Order, that will have an adverse effect on the time in which OSH is able to come back to a seven-day timeframe under the *Mink* Injunction.

DATED June 2, 2023.

Respectfully submitted,

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s/ Carla A. Scott

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